



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

JAMES P. BROOKS
ACTING COMMISSIONER

MEMORANDUM

TO: Board of Environmental Protection

FROM: Andrea Lani, Bureau of Remediation and Waste Management

DATE: June 16, 2011

RE: Final adoption of Chapter 882, Designation of Bisphenol A as a Priority Chemical and Regulation of Bisphenol A in Children's Products, Section 5, Sales prohibition of children's products containing bisphenol A

Statutory and Regulatory Reference:

A. Statutory authority.

38 MRSA §§1691 through 1699-B [PL 2007, c. 643]

B. Specific legal mandates requiring adoption.

Location/Applicability:

The proposed regulation will apply statewide.

Description:

Chapter 882, Designation of Bisphenol A as a Priority Chemical and Regulation of Bisphenol A in Children's Products, Section 5, Sales prohibition of children's products containing bisphenol A, prohibits the sale of reusable food and beverage containers that contain intentionally-added bisphenol A beginning January 1, 2012. This section also requires manufacturers subject to the sales prohibition to file a compliance plan no later than 180 days prior to the effective date of the sales prohibition and provides that manufacturers subject to the sales prohibition may apply to the commissioner for a waiver for one or more specified uses of the regulated product.

On December 16, 2010 the Board adopted Chapter 882, Sections 1-4 and 6 and provisionally adopted section 5, a major substantive provision as required in 38 MRSA §1696(1). The Legislature passed an emergency resolve (LD 412) authorizing final adoption of section 5 of Chapter 882 on April 12, 2011. Though only Section 5 is under discussion, the entire text of Chapter 882 has been included in the board packet for context.

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Environmental Issues:

Toxic chemicals in consumer products present significant risk of adverse health consequences ranging from subtle cognitive development to chronic disease and premature death. The Governor's Task Force to Promote Safer Chemicals in Consumer Products concluded that substantial human and societal costs of disability, birth defects and disease, including health care, educational and employment-related costs, may be attributable to increasing exposures to toxic chemicals. Reducing or eliminating exposures to these chemicals by shifting to use of safer alternatives may significantly reduce these costs.

The Declaration of Policy at 38 MRSA §1692 states, "It is the policy of the State, consistent with its duty to protect the health, safety and welfare of its citizens, to reduce exposure of children and other vulnerable populations to chemicals of high concern by substituting safer alternatives when feasible."

Concern over potential health effects from bisphenol A has grown in recent years due to findings that show BPA migrating into food and beverages from storage containers, including baby bottles, and studies that show the possibility for effects at low doses, including disruption of the hormone systems of the body. The greatest source of non-workplace human exposure to BPA appears to be through food in BPA-containing packaging. Babies who are fed liquid canned formula from polycarbonate bottles have the highest consumer exposure through diet to BPA.

The sales prohibition in Section 5 will reduce the exposure of infants and children in Maine to BPA by eliminating sales of baby bottles, sippy cups, water bottles and other reusable food and beverage containers that contain intentionally-added BPA.

Departmental Recommendation:

The Department recommends that the Board finally adopt Chapter 882 Section 5.

Estimated Time of Presentation:

15 minutes.